

Docket No.: 285615US0PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP: 1612

Tomoki MORIOKA

SERIAL NO: 10/566,498

EXAMINER: HOLLOMAN, NANNETTE

FILED: January 31, 2006

FOR: HAIR GROOMING PREPARATION

DECLARATION UNDER 37 C.F.R. § 1.132

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

Sir:

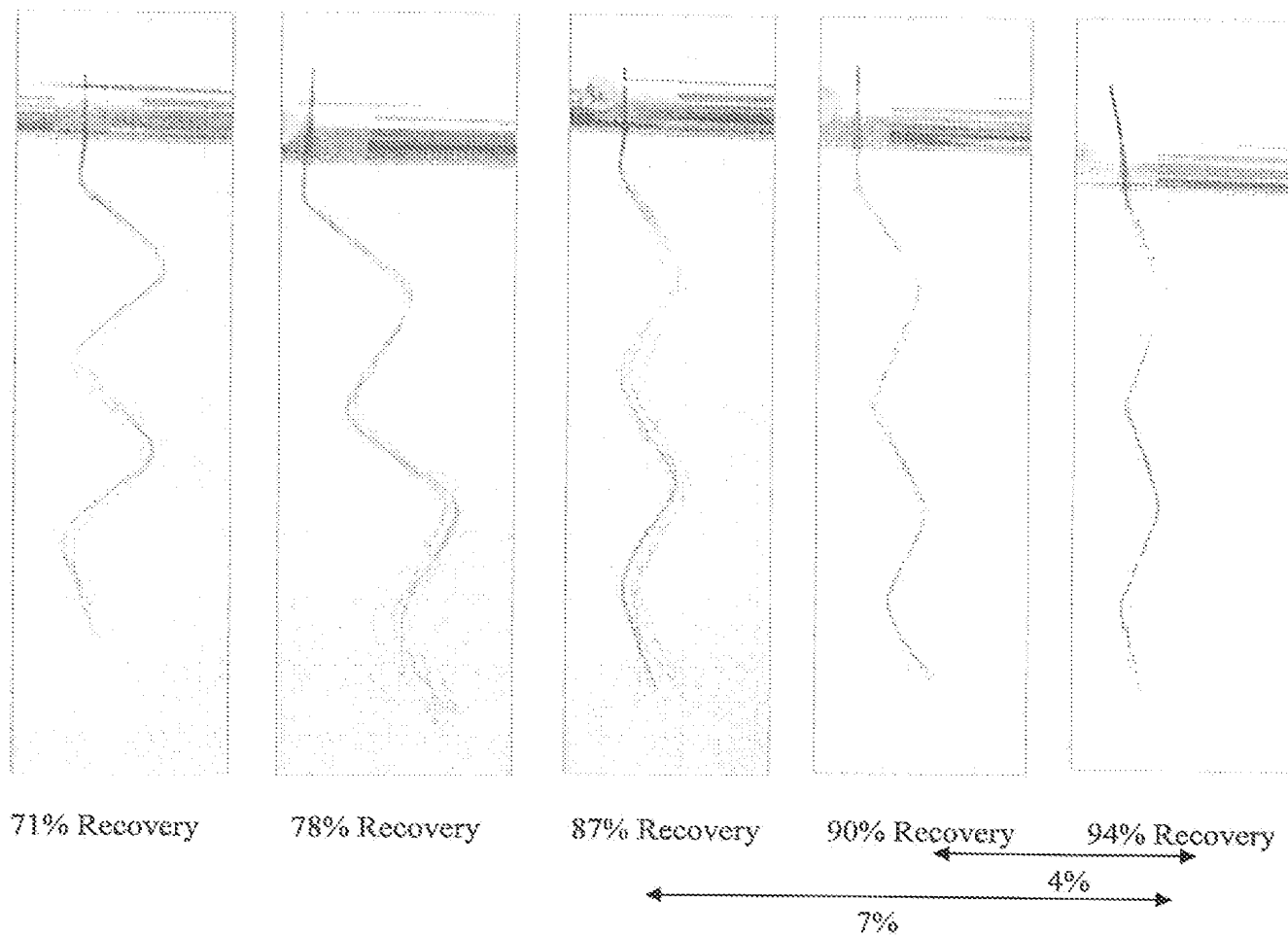
Now comes Mr. Hiroki Mizushima who deposes and states that:

1. I am a graduate of Kyoto University and received my masters degree in the year 1996, majoring in synthetic chemistry and biological chemistry.

2. I have been employed by Kao Corporation, the assignee of the above-identified application, since 1996. Beginning in 1996, I was a researcher involved in the Personal Care Research Laboratories, with a responsibility of research and development of hair care products. From 2006 to 2010, I was a researcher for Kao Research & Development Center in China and had a responsibility of hair care products. Since 2010, I have been involved in the Care Beauty Laboratories of Kao Corporation.

3. The following photographs show bended hair fibers formed by bending. Hair fibers having different bend angles are prepared as "Marks." Marks 1 through 5 are shown below along with their corresponding recovery percentage from the signs of bending.

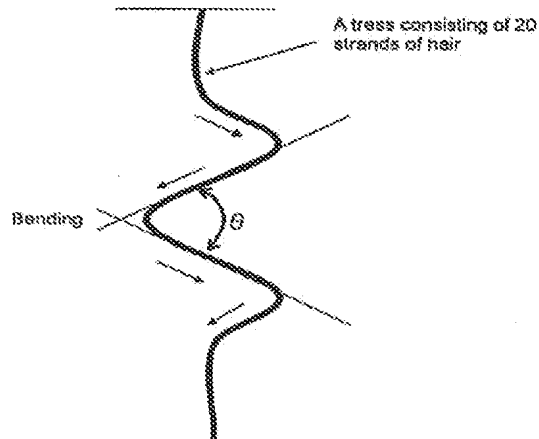
Marks after Untying Hair



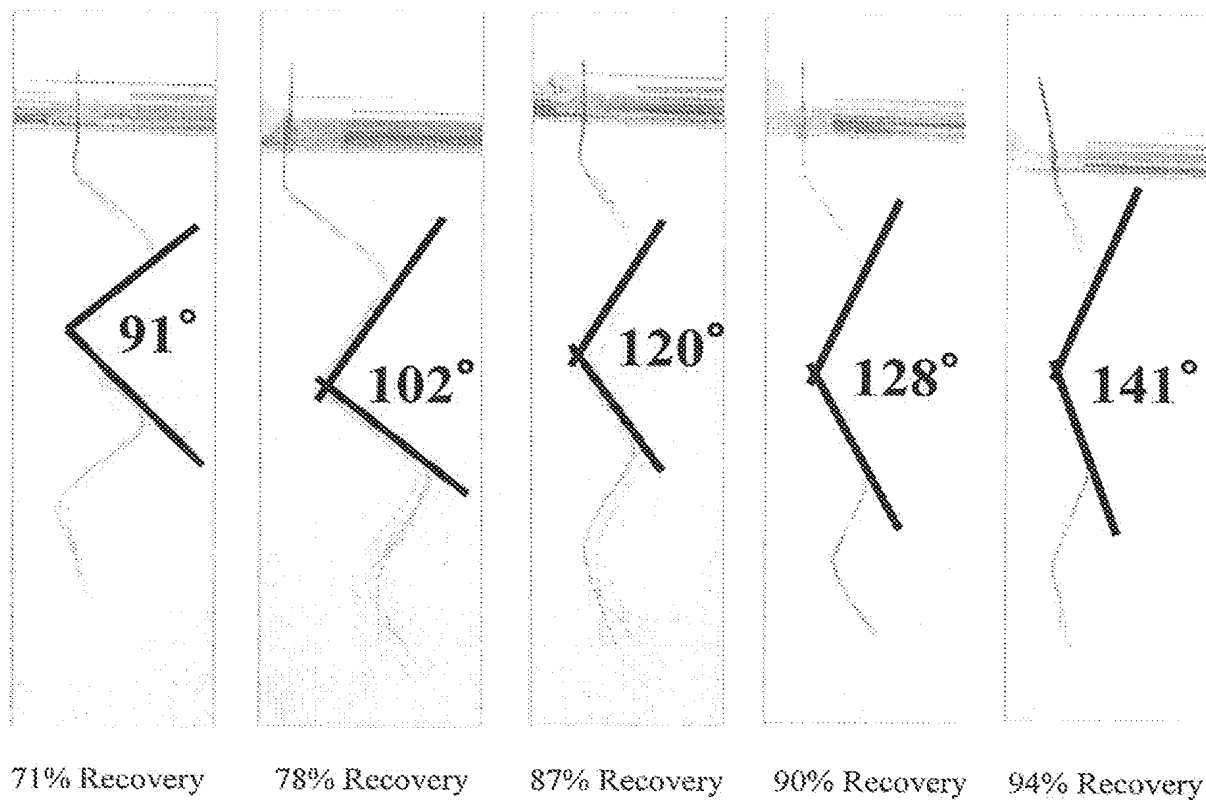
As can be seen from the above pictures, the difference between Mark 5 (94% recovery) and Mark 4 (90% recovery) is 4% and the difference between Mark 5 (94% recovery) and Mark 3 (87% recovery) is 7%. In addition, these photographs show that the differences in degree of bending are such that consumers can see/recognize these differences.

As the recovery percentage = $\sin(\theta/2) \times 100$ (see Figure 1 below), the following additional pictures including the bending angle (i.e., θ) are provided.

Fig. 1



Marks after Untying Hair



As can be seen from the above pictures, the difference in degree of bending correlates to the difference in recovery percentage.

In light of the foregoing, it is submitted that a consumer would recognize differences in the percent recovery from the signs of bending, even though such differences are small (e.g.,

4%, 7%, etc.), and as such would consider those differences to be both significant and unexpected in light of the fact that such small differences are perceptible to the consumer.

4. The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

5. Further deponent saith not.

Customer Number

22850

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Signature

Hiroki Miyushima

Date

3/1/2011